



## FEDERAL LABOR RELATIONS AUTHORITY

### 5 CFR Part 2429

#### Miscellaneous and General Requirements

**AGENCY:** Federal Labor Relations Authority.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Labor Relations Authority (FLRA) is proposing to amend its regulations to specify that, if parties wish to file documents with the FLRA’s Office of Case Intake and Publication (CIP) in person, then they must schedule an appointment at least one business day in advance. The proposed amendments also specify that electronically filed (eFiled) documents must be filed by “11:59 p.m.,” rather than “midnight,” on the due date, and make other minor technical and formatting changes.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may send comments, which must include the caption “Miscellaneous and General Requirements,” by one of the following methods:

- E-mail: [FedRegComments@flra.gov](mailto:FedRegComments@flra.gov). Include “Miscellaneous and General Requirements” in the subject line of the message.
- Mail: Erica Balkum, Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424-0001.

*Instructions:* Do not mail written comments if they have been submitted via email.

Interested persons who mail written comments must submit an original and 4 copies of each written comment, with any enclosures, on 8½ x 11 inch paper. Do not deliver comments by hand.

**FOR FURTHER INFORMATION CONTACT:** Erica Balkum, Chief, Office of Case Intake and Publication at ebalkum@flra.gov or at: (771) 444-5805.

**SUPPLEMENTARY INFORMATION:** Currently, 5 CFR 2429.24(a) states that – except for documents that are filed electronically through the FLRA’s electronic-filing (eFiling) system – parties that file documents with the FLRA’s three-Member, decisional component (the Authority) must file those documents with CIP between 9 a.m. and 5 p.m. E.T., Monday through Friday, except federal holidays. 5 CFR 2429.24(a). That regulation also provides that, if parties file those documents by hand delivery, then they must file them no later than 5 p.m. E.T. if the parties want the Authority to accept those documents for filing on that day.

Even before the Coronavirus-19 pandemic, parties rarely filed documents with CIP in person, and then in-person filing was suspended during the pandemic. Since the FLRA reinstated in-person filing effective May 30, 2023, no parties have filed documents with CIP in person.

Further, parties have multiple other methods for filing documents with CIP: most may be eFiled, *see* 5 CFR 2429.24(f) (listing types of documents that may be filed by eFiling); all may be filed by commercial delivery, first-class mail, or certified mail, *see* 5 CFR 2429.24(e); and some may be filed by facsimile transmission (fax), *see* 5 CFR 2429.24(g) (listing types of documents that may be filed by fax). All of those filing methods actually provide more flexibility than in-person filing, because they do not restrict parties to filing their documents during a particular window of time during the day. *See* 5 CFR 2429.24(a) (under current wording, eFiled documents must be filed by midnight); 5 CFR 2429.21(b)(1)(i) (documents filed by first-class mail are considered filed on the date of postmark, if a postmark is legible, or presumed filed five days before the date the Authority receives them, if the postmark is illegible); 5 CFR 2429.21(b)(1)(ii) (documents filed by fax are considered filed on the date of transmission

if that date is clear on the fax, or otherwise considered filed on the date on which the Authority receives the fax); 5 CFR 2429.21(b)(1)(iv) (documents filed by a commercial-delivery service that provides a record showing the date of deposit are considered filed on the date of deposit with the commercial-delivery service).

For these reasons, it is unclear that there is any need for CIP to be open to the public for in-person filing on an inflexible schedule of 8 hours a day, 5 days a week.

Additionally, as the FLRA continues to move towards fully electronic case files, it wishes to strongly encourage parties to file any permissible documents through the eFiling system. To the extent that moving to an “appointment-only” in-person filing system has any effect at all on parties’ filing practices, it should promote eFiling. Further, it would assist CIP – which has decreased in size, over the years, to only four full-time-equivalent employees – in more easily managing staff-coverage issues, especially if budget constraints or other considerations prevent it from filling vacancies as they arise.

Given these considerations, the Authority is proposing to revise 5 CFR 2429.24(a) to eliminate the references to parties being: (1) able to file documents with CIP between 9 a.m. and 5 p.m. E.T., Monday through Friday (except federal holidays), and (2) required to file any hand-delivered documents by 5 p.m. E.T. Instead, the proposed revisions would specify that: (1) to file documents with CIP by personal delivery, parties must schedule an appointment at least one business day in advance by calling CIP; and (2) personal delivery will be accepted by appointment Monday through Friday (except federal holidays).

In addition, the proposed revisions would: (1) update CIP’s phone number to (771) 444-5805; (2) delete the period after “NW” in CIP’s mailing address; (3) change the term “hand delivery” to “personal delivery,” consistent with other Authority regulations, *see* 5 CFR 2429.21(b)(1)(iii) (discussing how the Authority determines the due dates for “[d]ocuments filed with the FLRA by personal delivery”); (4) change the

eFiling deadline from “midnight E.T.” on the due date to “11:59 p.m.” on the due date, because midnight technically starts a new day; and (5) correct a typographical error in the second-to-last sentence of the regulation, changing “federal legal documents” to “federal legal holidays.”

### **Regulatory Flexibility Act Certification**

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this proposed rule would not have a significant impact on a substantial number of small entities, because this proposed rule would apply only to Federal agencies, Federal employees, and labor organizations representing those employees.

### **Executive Order 12866, Regulatory Review**

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 12866 (58 FR 51735, Sept. 30, 1993).

### **Executive Order 13132, Federalism**

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 13132 (64 FR 43255, Aug. 4, 1999).

### **Unfunded Mandates Reform Act of 1995**

This proposed rule would not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

## **Small Business Regulatory Enforcement Fairness Act of 1996**

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule would not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

## **Paperwork Reduction Act of 1995**

The proposed rule contains no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

## **List of Subjects in 5 CFR Part 2429**

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons stated in the preamble, the FLRA proposes to amend 5 CFR part 2429 as follows:

### **PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS**

1. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

2. Amend § 2429.24 by revising paragraph (a) to read as follows:

#### **§ 2429.24 Place and method of filing; acknowledgment.**

(a) Except for documents that are filed electronically through use of the eFiling system on the FLRA's Web site at [www.flra.gov](http://www.flra.gov), anyone who files a document with the Authority (as distinguished from the General Counsel, a Regional Director, or an Administrative Law Judge) must file that document with the Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424-0001 (telephone: (771) 444-5805). To file documents by

personal delivery, you must schedule an appointment at least one business day in advance by calling the telephone number in the previous sentence. Personal delivery is accepted by appointment Monday through Friday (except federal holidays). If you file documents electronically through use of the FLRA's eFiling system, then you may file those documents on any calendar day—including Saturdays, Sundays, and federal legal holidays—and the Authority will consider those documents filed on a particular day if you file them no later than 11:59 p.m. on that day. Note, however, that although you may eFile documents on Saturdays, Sundays, and federal legal holidays, you are not required to do so. Also note that you may *not* file documents with the Authority by electronic mail ("email").

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Approved: September 26, 2023.

**Rebecca J. Osborne,**

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*Federal Labor Relations Authority.*

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